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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,354	10/23/2003	Dan Dwyer	200310672	2728

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EXAMINER

BLACKMAN, ROCHELLE ANN J

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/693,354	Applicant(s) DWYER ET AL.	
	Examiner Rochelle Blackman	Art Unit 2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 4-7, 9-15, 20-28, 33-36, 38-53, 57, 58 and 60-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 16-19, 29-32, 37, 54-56 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner: Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/23/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's traversal and request for explanation as to why each of Figs. 1-12 represent a different and patentably distinct species does not meet requirements of MPEP 809.02(a) and therefore, has not been treated as an admission that the claims are "obvious variants". *Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. See MPEP 809.02(a).*

Applicant has elected the species of Fig. 1 corresponding to claims 1-8, 12-21, 29-37, 55-59, 61, and 62. Applicant erroneously indicated claim 54 as being withdrawn. Claims 55-59, 61, and 62 depend upon claim 54. Therefore claim 54 has been treated as an "elected" claim.

Contrary to Applicant's indications, all of the elected claims do not read on the "elected" species of Fig. 1. It is noted that the species of Fig. 1 does not include the features recited in the elected claims 4-7, 12-15, 20, 21, 33-36, 57, 58, 61, and 62. For example, the species of Fig. 1 does not include the translation of the lens tube along the lens track being motorized as recited in claim 5. Therefore, claims 4-7, 12-15, 20, 21, 33-36, 57, 58, 61, and 62 are treated as claims drawn to non-elected species and are hereby withdrawn. Examination of claims 1-3, 8, 16-19, 29-32, 37, 54-56, and 59 is provided below.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "light source" recited in claims 8 and 37 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Claim Objections

Claim 55 is objected to because of the following informalities: on line 2 of the claim, "housing means" should be - -housing- -. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 8, 16-19, 29-32, 37, 54-56, and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Korkosz et al. (U.S. Patent No. 2,168,799).

Korkosz discloses a projector (Figs. 1-3), comprising: a housing (see 10) for housing circuitry configured to generate an image, said housing including a bottom surface (see 6 and 8); a lens (see P) configured to focus said image, and means for rotating said housing with respect to a housing base to direct a projected image in a desired direction/ a swivel base (see 2, 11, and 13) coupled to said bottom surface of said housing; wherein said lens is aimed in a horizontal plane by swiveling said housing on said swivel base (see pg. 1, 2nd col., lines 27-35); further comprising: a lens tube (see P) containing said lens; a lens track/ a vertical translating means (see 4) on said housing/coupled to said housing means, wherein said lens tube is configured to translate/move along said lens

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track/ said vertical translation means with respect to said housing/ to vertically position said lens(also see pg. 1, 2nd col., lines 27-35); wherein said lens tube is configured to translate along said lens track such that said lens is vertically positioned at an angle between 0 and 90 degrees with respect to said swivel base (also see pg. 1, 2nd col., lines 27-35); wherein said lens tube is configured to translate along said lens track such that said lens is vertically positioned at an angle between 0 and 180 degrees with respect to said swivel base (also see pg. 1, 2nd col., lines 27-35); further comprising a light source (see 12, 14, 16) , said light source associated with said housing; wherein said housing is configured to swivel 360 degrees in said horizontal plane (also see pg. 1, 2nd col., lines 27-35); wherein said image comprises a video/still image (see function of P); wherein said housing is hemispherically shaped (see shape of 10); wherein said means for rotating are configured to be manually controlled (see function of 2, 11, and 13 and also see pg. 1, 2nd col., lines 27-35). Method claims are similarly met by the features and functions of the above-mentioned elements.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rochelle Blackman whose telephone number is (571) 272-2113. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RB


JUDY NGUYEN
SUPERVISORY PATENT EXAMINER